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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/786,830	05/22/2001	Michael R. Hatch	19141.0047/P	6551

23859 7590 08/22/2003  
NEEDLE & ROSENBERG, P.C.  
SUITE 1000  
999 PEACHTREE STREET  
ATLANTA, GA 30309-3915

EXAMINER

DAHBOUR, FADI H

ART UNIT	PAPER NUMBER
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3742

DATE MAILED: 08/22/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/786,830

Applicant(s)

HATCH ET AL.

Examiner

Fadi H. Dahbour

Art Unit

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7,9-11 and 14-17 is/are rejected.
- 7) ☒ Claim(s) 8,12 and 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-7, 9-11, 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Tamada (WO96/00110).

Tamada discloses a system for detecting and measuring an analyte in a biological fluid of an animal (Figs. 1-40), comprising a harvesting device (204) suitable for positioning on the surface of tissue of an animal to harvest biological fluid therefrom, and an analyte sensor (210) positioned to be contacted by the harvested biological fluid and which generates a measurement signal representative of the analyte, and at least one attribute sensor (206) to measure an attribute associated with the operation of the harvesting device and which generates an attribute signal representative of the attribute, and a processor (212) coupled to the attribute sensor and the analyte sensor to receive the attribute signal and the measurement signal, wherein the processor adjusts an operational parameter of the harvesting device based on attribute signal (see lines 7-11 of page 30), wherein the attribute sensor measures an operational parameter of the analyte sensor, and the processor generates an output signal (216) that indicates a measure of an analyte in the biological fluid compensated for the attribute measured by the attribute sensor, wherein the attribute sensor comprises a temperature sensor (206)

Art Unit: 3742

coupled to the analyte sensor to measure temperature of the analyte sensor, wherein the attribute sensor measures the attribute continually (see lines 4-5 of page 32), wherein processor continually reads the attribute signal and the measurement signal and generates the output signal on a continual basis (see lines 4-5 of page 32), and a display (216) coupled to the processor to display a value of the output signal generated by the processor, wherein the analyte sensor is a glucose sensor (see lines 19-31 of p.31), wherein the attribute sensor detects a condition of the tissue indicative of fluid productivity (see "glucose flux" in lines 3-23 of page 15).

***Allowable Subject Matter***

3. Claims 8, 12-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Tamada ('254), Tamada ('629) and Tamada ('890) are cited to show systems and methods for detecting and measuring biological fluids.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fadi H. Dahbour whose telephone number is 703-306-5479. The examiner can normally be reached on M-F, 9am-5:30pm est.

Art Unit: 3742

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sang Paik can be reached on 703-308-1147. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0861.



Fadi H. Dahbour  
Examiner  
Art Unit 3742